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THE INTERNET
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April 11, 2002

The Hon. Gale Norton
Secretary of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Norton:

It has come to my attention an industry group seeking to drill for oil and gas in the Arctic National Wildlife Refuge (ANWR) has succeeded in having a video prepared at private industry expense presented on the web page of the U.S. Department of Interior. Moreover, your staff has confirmed that you personally have sent this industry video at DOI expense to numerous national news outlets seeking to have it presented as a "more accurate" representation of ANWR than the images that the news outlets have chosen to use. By way of example, a copy of your Feb. 27, 2002 letter to NBC anchor Tom Brokaw is attached.

The use of appropriated funds by executive-department agencies to engage in publicity or propaganda designed to support or defeat legislation pending in Congress is prohibited under Section 623 of Public Law 107-67, which states in relevant part: "No part of any funds appropriated in this or any other Act shall be used by any agency of the executive branch, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, and for the...distribution or use of any...film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself."

Moreover, Section 626 of the same law provides: "No part of any appropriation contained in this or any other Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by Congress"

It would appear on the face of it that your use of your official office to promote this industry-sponsored video in an effort to influence Congress to drill in the Arctic Refuge is precisely the kind of activity that is prohibited by law.

Further, I note that the Comptroller General of the United States has previously ruled it improper for agencies "to use appropriated funds to provide assistance to private lobbying groups." GAO has noted, "the few cases in which violations have been found have involved a version of the publicity and propaganda statute tied in specifically to

attempting to influence pending legislation.” (See Principles of Federal Appropriations Law, Vol. 1, GAO/OGC-91-5, page 4-167.)

Aside from the legal fine points, the Department of Interior is a proud agency staffed by dedicated public servants who are not beholden to the commercial demands of the oil and gas industry and their lobbying firms. The morale of the agency and your effectiveness as a leader could easily collapse if the Secretary’s office were to become, unwittingly or not, a pass-through for industry publicity and propaganda.

Accordingly, I urge you to cease and desist from using appropriated funds in this manner.

In addition, I would appreciate your assistance in better understanding the decision-making process you are using that led you to engage in these prohibited publicity and propaganda efforts:

1. Did you seek an opinion from the Solicitor of your Department prior to posting the industry propaganda on the public web site? Prior to sending the industry propaganda to NBC’s Tom Brokaw or other news entities? If so, did the opinion address the applicability of Section 623 or Section 626? Please provide all opinions rendered on this activity by your legal department.
2. In your attempt to influence Mr. Brokaw, you characterize the producer of the video as “Arctic Power, an organization funded primarily by the Alaska State government.” On its own website, Arctic Power characterizes itself as a “not-for-profit citizens organization...founded...to expedite congressional and presidential approval of oil exploration and production in the coastal plain of the Arctic National Wildlife Refuge” with “a Washington, DC lobby office.”


In fact, as you well know, Arctic Power is the number one lobbying organization in support of drilling on the coastal plain of the ANWR. While the ratio of state funding to oil company funding varies, the oil industry is its most significant source of private funding, including contributions from the two largest companies drilling on the North Slope (British Petroleum and Phillips) and from a large number of oil and gas concerns who also serve as Arctic Power’s Board of Directors and Directors.

This private lobbying organization has been an enthusiastic backer of the president’s efforts to begin drilling in the Arctic Wildlife Refuge, using such traditional techniques as hiring ad firms to send its videos to news outlets, hire lobbying firms to help with its own lobbying, hiring consultants to do opposition research on environmental groups, and so forth. However, it is certainly not a traditional technique – in fact, it is illegal – for a Federal agency to volunteer to substitute its public face for the face of the registered lobbying firm in the firm’s efforts to distribute private lobbying propaganda.

- Who, in fact, conceived of this idea of putting Arctic Power's video on the public DOI web site? Of sending it to NBC's Tom Brokaw and others? Did the industry group bring it to you, or did you suggest it to the industry group?
3. You have hired as a "special assistant for Alaska" Cam Toohey. Mr. Toohey was the executive director of Arctic Power before you hired him to serve the public. Did Mr. Toohey advise you with regard to the posting of Arctic Power's propaganda on the Department's web site, or to the mailing of your letter with the propaganda to Mr. Brokaw and others? Have you or Mr. Toohey sought an opinion from with regard to the appropriateness of his deciding matters directly involving his former private employer? Has he recused himself from any matter involving his former employer?
 4. To your knowledge, other than the examples cited above, have you or anyone else in the Department ever used appropriated funds to distribute material prepared by a lobbying organization in an effort to influence Congress or the public to support or oppose legislation? Please provide details of each example.
 5. To your knowledge, have you or anyone else in the Department ever used appropriated funds to distribute material prepared by a lobbying organization in an effort to educate, but not influence, Congress or the public to support or oppose legislation? Please provide details of each example.
 6. To your knowledge, have you or anyone else in the Department ever used appropriated funds to develop publicity or propaganda materials to be given to Arctic Power or other private lobbying organizations to be used in their efforts to lobby Congress? Please provide details of each example.
 7. In your letter to NBC's Tom Brokaw, you suggest calling the Department's office of communications with further questions. Please provide a list of every communication that was generated with the Department as a result of your mailing out the industry propaganda.
 8. Please provide a list of every communication, including letters, phone calls, and e-mails, made to and from the Department and Arctic Power regarding this video tape or any other effort to use the Department of Interior to facilitate the private lobbying efforts of Arctic Power.

Thank you for your prompt attention to this matter. I would appreciate receiving your initial reply by April 24, 2002.

Sincerely,


Edward J. Markey

CC: The Hon. C.W. Bill Young, Chairman
House Appropriations Committee

The Hon. David Obey, Ranking Member
House Appropriations Committee



THE SECRETARY OF THE INTERIOR

WASHINGTON

FEB 27 2002

Mr. Tom Brokaw
NBC Nightly News
30 Rockefeller Plaza
Room 329 E
New York, New York 10112

Dear Tom:

As the U.S. Senate debates President Bush's bipartisan national energy strategy over the next several weeks, I encourage NBC Nightly News to report about the President's initiative to allow environmentally sensitive energy production in the far north slope – commonly called the 1002 Area – of the Arctic National Wildlife Refuge.

Enclosed is a betacam tape, which you are free to use, showing the north slope of ANWR in the winter – the only time when energy exploration would be allowed under the President's plan. The video was produced for Arctic Power, an organization funded primarily by the Alaska State government.

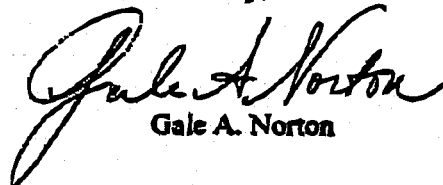
I think it is important that you have video of the actual part of ANWR being discussed, so that your viewers can have a more accurate understanding of the issue. Frequently during the energy debate, I have watched television programs feature video that resembles ANWR's Brooks Range. This area is designated wilderness in the central portion of the Refuge – and is not the area proposed for energy development.

Winter-only exploration in ANWR is just one example of the President's commitment to impose the toughest environmental standards ever applied to oil production. For example, the administration will also require the use of ice roads that melt away in the spring and protect the tundra.

Moreover, the administration will require directional drilling and smaller production pads, so that energy exploration can be accomplished utilizing just 2,000 of the 1002 Area's 1.5 million acres. These stringent requirements must be adopted so we can reduce our dependence on foreign oil and protect ANWR's habitat and the wildlife that call it home.

Please call Interior Department communications at 202/208-6416 with further questions.

Sincerely,


Gale A. Norton

Enclosure